No._____

In The Supreme Court of The United States

OCTOBER TERM, 1968

THE PEOPLE OF THE STATE OF CALIFORNIA, by JAMES DON KELLER, District Attorney for the County of San Diego,

Petitioner,

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN DIEGO,

Respondent,

RICHARD M. COPELAND, JR. and SANDEE L. PETERSON,

Real Parties in Interest.

Petition for a Writ of Certiorari to the Court of Appeal, Fourth Appellate District, Division One, State of California, For the County of San Diego

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IN THE
SUPREME COURT OF THE UNITED STATES

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Real Parties in Interest pray that a writ of certiorari issue to review the opinion of the Court of Appeal, Fourth Appellate District, Division One, entered in the above-entitled case on May 17, 1968.

CITATION TO OPINION BELOW

The opinion of the Court of Appeal, Fourth Appellate District, Division One, is reported at 262 A.C.A. 288. It is reproduced in the appendix to this petition at page

JURISDICTION

The opinion of the Court of Appeal, Fourth Appellate District, Division One, was entered on May 17, 1968. A timely petition for rehearing was denied on June 14, 1968.[2] A timely petition for hearing in the Supreme Court of California was denied on July 10, 1968.[3] The filing date of this petition is less than ninety days (90) thereafter, wherefore jurisdiction of this court is invoked under 28 U.S.C., Section 1257.

QUESTIONS PRESENTED

Can a judge or magistrate constitutionally delegate his duties to a clerk of the court in such a manner that a misdemeanor complaint and a warrant of arrest, subscribed for nighttime service, be issued without the clerk having any first-hand knowledge of the alleged offense and without the judge or magistrate ever having seen the complaint and warrant or signing the warrant or even having knowledge that the complaint and warrant existed or were ever issued?

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1. Appendix "A"
2. Appendix "B"
3. Appendix "C"

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved are the following portion of the Fourth Amendment to the Constitution of the United States: "No warrant shall issue but upon probable cause supported by oath or affirmation," 4/ and that portion of the Fourteenth Amendment to the Constitution of the United States which states: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor to deny to any person within its jurisdiction the equal protection of the laws." 5/

STATEMENT OF THE CASE

On May 8, 1967, Real Party in Interest, Richard M. Copeland, Jr., failed to appear in Chula Vista, California, on his written promise to appear, for a California Vehicle Code violation of driving with a defective muffler. 6/ The case docket or record was forwarded to the Municipal Court Clerk's office on the second floor of the San Diego County Courthouse located at 220 West Broadway, San Diego, California, approximately twelve miles from the Chula Vista, California, courthouse. On May 26, 1967, a municipal court clerk, M. Musser, stamped a preprinted complaint with a facsimile of her signature under penalty of perjury, alleging that she had "information and belief" of facts contained therein. The complaint charged Richard M. Copeland, Jr. with a violation of California

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4. U.S. Constitution, Fourth Amendment
5. U.S. Constitution, Fourteenth Amendment
6. California Vehicle Code, Section 27150

Vehicle Code Section 40508(a)[7] of failure to appear upon a written promise to appear. Three days later, May 29, 1967, an entry was made in the docket or record of the case, stating, "Deft. not appearing, 40508 VC complaint and warrant ordered; bail $25, 10; 3pa." [8] The same clerk, M. Musser, took a preprinted warrant for nighttime service, inserted Richard M. Copeland, Jr.'s name, stamped it with the judge's facsimile signature stamp and delivered the complaint and warrant to the Marshal's office. These acts were done without the judge ever seeing the complaint or the warrant or having any knowledge of their existence or issuance and execution. [9] The complaint, [10] the warrant and the accompanying bail assessment [11] were generated by a computer [11] located in another building at 1600 Pacific Highway, San Diego, California, approximately two miles from the Municipal County Court Clerk's office and fourteen miles from the Chula Vista courthouse.

On or about midnight, June 28, 1967, two sheriff's deputies were patrolling a remote area near Palm City, California, a few miles north of the border with Mexico. They saw a 1950 Oldsmobile parked adjacent to a reservoir. The deputies stopped to investigate when they detected two persons moving around outside the vehicle. They parked their patrol vehicle and proceeded to interrogate the male driver, Copeland, and the female passenger, Peterson, who properly identified themselves.

Suspecting the car to be a possible stolen vehicle

7. California Vehicle Code, Section 40508(a)
8. Municipal Court Docket - Appendix "D"
9. Fourth District Appellate Court Opinion - Appendix "A"
10. Appendix "E"
11. Appendices "D" and "F"

because of a slight difference in the name on the registration and that given by Copeland, the officers proceeded to make a radio check on the car and the occupants. The reply indicated that the car was not stolen, but that there was a possible warrant for Copeland's arrest for a failure to appear on May 8, 1967, for the defective muffler. Since nighttime service was authorized on the computerized warrant, Copeland was arrested pursuant thereto. As Copeland left the car upon demand of the officer, said officer noticed a hand-rolled cigarette upon the front seat where Copeland had been located. A subsequent search took place and contraband, consisting of marijuana and amphetemine pills, was discovered within the automobile. Both suspects (Real Parties in Interest) were placed under arrest for suspicion of possession of marijuana [12] and dangerous drugs. [13]

A complaint was issued on June 30, 1967, and a preliminary hearing held on July 28, 1967. The defendants were dismissed and the evidence ordered returned to the District Attorney for destruction in due course. On September 20, 1967, the District Attorney presented the same evidence before the San Diego County Grand Jury and procured a bill of indictment and a Superior Court arrest warrant for the arrest of Richard M. Copeland, Jr. and Sandee L. Peterson. On September 26, 1967, defendant Peterson made a motion to suppress evidence [14] and to set aside the indictment. [15] Both motions were denied by the Superior Court of San Diego, California. On or about November 5, 1967, defendant Peterson filed a petition for a Writ of Prohibition in the

12. Health & Safety Code, Section 11530
13. Health & Safety Code, Section 11910
14. Penal Code, Section 939.6
15. Penal Code, Section 995

Court of Appeal, Fourth Appellate District, Division One. On November 8, 1967, the People of the State of California filed a motion to dismiss Peterson's petition and on November 9, 1967, the court dismissed the petition. On December 15, 1967, Real Parties in Interest filed a motion to suppress the evidence under the new California Penal Code requirements, [16] briefs were submitted, and on January 17, 1968, the Superior Court of the State of California, for the County of San Diego granted the motion to suppress the evidence. On or about January 22, 1968, the People of the State of California filed in the Court of Appeal, Fourth Appellate District, Division One, a "Notice of intention to file (a) petition for Writ of Mandate or Prohibition". The Real Parties in Interest filed an "Opposition to petition for Writ of Mandamus and for Prohibition" on March 4, 1968. Oral argument was heard on May 17, 1968. On June 3, 1968, a timely petition for rehearing was filed by the Real Parties in Interest, and it was denied on June 14, 1968. [17] A timely petition for hearing was filed with the California Supreme Court on June 26, 1968, and was denied on July 10, 1968. [18] The Court of Appeal, Fourth Appellate District, Division One, entered the aforementioned opinion, and the Writ of Prohibition was issued on July 18, 1968. [19]

16. Penal Code, Section 1538.5
17. Appendix "B"
18. Appendix "C"
19. Appendix "G"

ARGUMENT

REASONS FOR ALLOWANCE OF THE WRIT

Can A Court Clerk Issue A Complaint And Warrant Without A Magistrate Seeing Or Having Knowledge Of Their Existence?

There is a conflict among the states concerning the constitutionality of the delegation of judicial authority to clerks of the court and that, because of this conflict, a citizen may be deprived of his freedom in violation of the Fourteenth Amendment and faced with an unequal protection of the laws dependent upon which state he may presently be within.

The Supreme Court of Minnesota in the case of State v. Paulick, 151 N.W.2d 591, and later in City of St. Paul v. Tobler, 153 N.W.2d 440, declared that a statute authorizing clerks and deputy clerks to issue complaints and warrants for arrest for misdemeanor offenses was in violation of the U.S. Constitution.

The only issue before the Minnesota Supreme Court in the Paulick case (supra) was whether the execution of the complaint before a clerk of the court rather than a magistrate is a denial of defendant's constitutional rights. The court relied upon the United States Supreme Court decisions in:

Giordenello v. U.S., 357 U.S. 480 (1958)
Aguilar v. Texas, 378 U.S. 108 (1964) and,
Jaben v. U.S., 381 U.S. 214 (1965)

to illustrate that a magistrate could not constitutionally delegate his judicial authority to clerks of the court.

As stated in Jaben (supra), Giordenello v. U.S. and Aguilar v. Texas established that a magistrate is intended to make a neutral judgment that resort to further criminal process is justified. A complaint must provide a foundation for that judgment. It must provide the affiant's answer to the magistrate's hypothetical question, "What makes you think that the defendant committed the offense charged?"

In Aguilar v. Texas (supra) (1964), the court insisted that:

> "The magistrate perform his 'neutral and detached' function and not serve merely as a rubber stamp . . . "

In the case of Bowen v. State, 115 P. 376, it states:

> "'Warrant of arrest' is an order in writing in the name of the state, signed by a magistrate, commanding the arrest of the accused. The clerk of the court has no authority to issue a warrant for the arrest of one against whom an information has been filed in such court."

In the case of Johnson v. MacCoy, 278 F.2d 37, at p. 39, it states:

> "The decision (to issue an arrest warrant) is not for a district attorney and only a district attorney to make. We think this is precisely why all persons desiring a complaint to issue must present their evidence before and convince a non-prosecuting

> attorney, i.e., a magistrate. He reviews the facts and exercises his judgment. If it were solely the function of the district attorney to determine what the magistrate may consider, the final veto power would be placed in the hands of the prosecuting officer, rather than a judicial officer. This is contrary to the practice and theory of our system of justice, including the grand jury system."

And, in the case of Bradley v. Fisher, 20 L. Ed. 646 (1872) at p. 651, the court held:

> "A distinction must be observed between excess jurisdiction and the clear absence of all jurisdiction over the subject matter. Where there is clearly no jurisdiction over the subject matter, any authority exercised is a usurped authority, and for the exercise of such authority, when the want of jurisdiction is known to the judge, no excuse is permissible - -"

In the instant case, the Municipal Court Clerk was the affiant on the complaint. The complaint originated as a computer print-out, and the clerk's knowledge of the facts was limited to the information contained therein. Nevertheless, the evidence indicates that the Clerk stamped the complaint with her facsimile stamp of her signature under penalty of perjury three days before the case docket indicated that a complaint was to issue, and then stamped a computerized warrant with the judge's facsimile signature stamp and delivered both complaint and warrant to the Marshal.

In the case of People v. Sesslin, 68 Cal. 2d 431, the California Supreme Court applied the rules of Giordenello, Aguilar and Jaben (supra) to the California Courts. This was also held to be the law in People v. Montoya, 255 A.C.A. 157 and In Re Schaefer, 134 Cal. App. 499, which applied the Federal Standards under the Fourth Amendment of the United States Constitution to the State of California.

Here the issuance of both complaint and warrant are not only figuratively but literally rubber stamp documents issued not perfunctorily by a magistrate, but perfunctorily by the Clerk untrained in law. For all practical purposes and most important, for all constitutional purposes, the night time arrest of Copeland was warrantless in view of the mechanical manner of issuance of both the complaint and warrant of arrest.

In the case of Providence Tool v. Prader, 32 Cal. 634, it states:

> "The clerk derives all his powers from the statute, and as they are special, no intendments are to be made in support of his acts, but in each case it must appear that what he did was within the authority conferred upon him by the statute -- those acts that properly pertain to the judge alone in exercise of his office are deemed judicial -- clerk by statute only."

In Oliphant v. Whiting, 34 Cal. 25, it states:

> "Clerk not to act judicially unless by statute."

The Court of Appeal, Fourth Appellate District dismissed these arguments by Real Parties in Interest by holding that the Constitutional requirements re: complaints did not apply to the offense of "failure to appear" and that therefore the delegation of authority was not improper.

This holding is not only in direct conflict with the Supreme Court of Minnesota cases of Paulick and Tobler (supra) but completely at odds with the recent trend of the United States Supreme Court to protect an individual's rights under the Fourth Amendment to the United States Constitution as applied via the Fourteenth Amendment.

In the cases of Camara v. Municipal Court, 387 U.S. 523 (1966) and See v. City of Seattle, 387 U.S. 54 (1966) the Supreme Court struck down warrantless searches of dwellings pursuant to state administrative health and safety codes. The majority held that the magistrate need not reassess the basic agency decision to canvass an area but need only examine whether or not the inspector himself is acting under proper authorization. The dissent in Camara and See (supra) thought that even this interposition of a "neutral magistrate" to avoid "rubber stamp" warrants would result in a mechanical issuance of boxcar warrants by magistrates, warrants which "will be printed up in pads of a thousand or more -- with space for a street number to be inserted -- and issued by magistrates in broadest fashion as a matter of course."

Clearly both the majority and dissenters in Camara and See (supra) would find unconstitutional the California law re complaints and warrants for "failure to appear" as enunciated by the California Court of Appeal, Fourth Appellate District.

CONCLUSION

For the foregoing reasons, the prayer of this Petition for issuance of a Writ of Certiorari to the California Court of Appeal, Fourth Appellate District should be granted.

Respectfully submitted,

SAMUEL N. HECSH

Attorney for Real Parties
In Interest

APPENDIX A

IN THE COURT OF APPEAL

FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, Petitioner, v. SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN DIEGO, Respondent. RICHARD M. COPELAND, JR., and SANDEE L. PETERSON, Real Parties in Interest.	4 Civ. No. 9139 Court of Appeal - Fourth Dist. FILED MAY 17 1968 GEO. J. KOBELIN, Clerk /s/ Erwin J. Luszynski Deputy Clerk

OPINION

PROCEEDING under Penal Code, section 1538.5(o), for writ of mandate or prohibition to contest a superior court order suppressing evidence. Joseph A. Kilgarif,

Judge. Writ of prohibition granted.

James Don Keller, District Attorney and Richard H. Bein, Deputy District Attorney, for Petitioner.

Hecsh, Hegner & Philbin and Michael S. Hegner, for Real Parties in Interest.

The People petition for a writ of mandate or prohibition under Penal Code, section 1538.5(o), to contest a superior court decision (1) concluding an arrest warrant was invalid, and (2) suppressing evidence because of the warrant's invalidity.

About midnight, June 28, 1967, Sheriff Deputies Wigginton and Olmstead, while patrolling a high intensity narcotics area near Palm City, a few miles north of the border with Mexico, saw a 1950 Oldsmobile with its interior lights on, parked by a reservoir. Two people were moving around outside the vehicle, but were inside it by the time the deputies reached the vehicle to investigate. Male driver Copeland and female passenger Peterson (Real Parties in Interest) identified themselves.

Copeland said Tom Harris owned the car, but the registration slip identified the owner as Victor Earl Harris. Suspecting the car might be stolen, Olmstead placed a radio check on the car and its occupants. The return, about five minutes later, indicated the car was not stolen, but there might be a warrant outstanding for Copeland's arrest. Awaiting more radio information on the warrant, the deputies asked for Copeland's permission to search the car. According to Copeland:

"I told the officer that the car had been -- did

belong to somebody that had been in trouble before for narcotics, yes, and, therefore, I did not want to be searched."

He also exclaimed "Either arrest me or let me go."

Thirty to forty minutes after learning of the possible warrant, the deputies learned there was an outstanding misdemeanor arrest warrant good for night time service on Copeland. The misdemeanor warrant for Copeland's arrest resulted from his failure to appear for a traffic violation (Veh. Code, §40508(a)). Wigginton opened the car door, arrested Copeland, and, as Copeland got out of the car, saw a marijuana cigarette in plain view on the front seat. The deputies then searched the car and found the marijuana evidence the superior court later suppressed.

Within twenty days after a traffic violator fails to appear, after promising to appear, a warrant issues under Vehicle Code, section 40515. A computer generates the warrant. No magistrate ever sees it. A court clerk affixes a magistrat's signature facsimile stamp and attaches an IBM bail card. The clerk sends the warrant to the serving marshal.

The superior court determined:

1) The deputies reasonably stopped and questioned defendants; asked for identification; made a radio check to see if the car was stolen, and incidentally asked for a check on defendants; detained defendants while awaiting word after learning of a possible warrant (not knowing if misdemeanor or felony).

2) A court clerk affixed the docket entry in

Copeland's traffic case reading: "Deft. not appearing, 40508 VC complaint & warrant ordered; bail"; affixed the judge's signature facsimile stamp, without the judge ever seeing the warrant.

3) Copeland's arrest warrant is invalid because it fails to satisfy Penal Code, sections 813 and 815 requiring a magistrate to issue and sign an arrest warrant after satisfied by a complaint the offense has been committed and there is reasonable ground to believe defendant committed it.

4) The evidence seized after unlawful arrest must be suppressed.

The determinative statutes in this matter are Vehicle Code, section 40515, and Penal Code, section 853.8. Vehicle Code, section 40515, declares in part:

> "When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail, the magistrate shall issue and have delivered for execution a warrant for his arrest within 20 days after his failure to appear before the magistrate . . . . "

Penal Code, section 853.8, involving citations for misdemeanors, recites:

> "When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 853.6, the magistrate shall issue and have delivered for execution a warrant for his arrest

within twenty (20) days after his failure to appear as promised."

These sections by their language do not reguire a magistrate to determine from a complaint if an offense occurred and if reasonable grounds implicate defendant, as generally required by Penal Code, section 813. The offense, failure to appear, occurs in front of the magistrate, satisfying in every case the requirements of Penal Code, section 813, and People v. Sesslin, 68 A. C. 431. The clerk's docket entry indicates at the time of non-appearance before the magistrate, the magistrate ordered a warrant issued. Neither Vehicle Code, section 40515, nor Penal Code, section 853.8 requires the magistrate to sign the arrest warrant issued, as generally required by Penal Code, section 815. These sections, we believe, exempt Vehicle Code, section 40515, and Penal Code, section 853.8, failure to appear arrest warrants from the signature requirement of Penal Code, section 815. The arrest warrant, arrest, and any search or seizure here, therefore, were valid.

Let a writ of prohibition issue prohibiting the superior court from suppressing the seized marijuana evidence. This Court's April 3, 1968 restraining order is vacated.

/s/ BROWN
P. J.

WE CONCUR:

/s/ COUGHLIN
J.

/s/ WHELAN
J.

APPENDIX B

STATE OF CALIFORNIA
CLERK'S OFFICE

COURT OF APPEAL
FOURTH APPELLATE DISTRICT
DIVISION ONE
6010 STATE BLDG.

San Diego, Cal. June 14, 1968.

No. 4 Civil 9139

People etc.

v.

SUPERIOR COURT etc,

By the Court:

The petition for rehearing is denied.

Brown, P.J.

GEORGE J. KOBELIN, Clerk

By /s/ R.J. Smith
Deputy

12716-114 8-67 1M OSP

APPENDIX C

CLERK'S OFFICE SUPREME COURT
4250 STATE BUILDING

San Francisco, California 94102

JUL 10 1968

Dear Sir: I have this day filed Order

HEARING DENIED

In re: 4 Civ. No. 9139

People, etc.

vs.

Superior Court, San Diego, Ca.
Copeland

Respectfully,

WILLIAM I. SULLIVAN

Clerk

19174-877 3-68 2500 OSP

APPENDIX D

CITY OF IMPERIAL BEACH
POLICE DEPARTMENT

No. Z 7742

DRIVER'S LIC. NO. H5779?6 PHONE NUMBER

DRIVER'S NAME RICHARD MILTON COPELAND JR

ADDRESS 1214 GEORGIA CITY I.B.

SEX	HEIGHT	WEIGHT	BIRTH DATE MONTH	DAY	YEAR	AGE
M ☐ F ☐	FT. 5 IN. 10	160	11	23	42	24

OCCUPATION NOT EMPLOYED EMPLOYED REG. OWNER YES ☐ NO ☑

VEH. YR	MAKE	TYPE	LICENSE NUMBER	STATE	COLOR
55	PONTIAC	PST492	CAL	GRY	

LOCATION

TIME 10 05 A.M. ☐ P.M. ☒ MONTH 4 DAY 20 YEAR 67

LOCATION OF OCCURANCE	DIRECTION	APPROX. SPEED	ZONE/MAX.	ACCIDENT YES ☐ NO ☒
	W	30	25	

W ON CORONADO AT CONN

VIOLATION

☐ MUNICIPAL CODE ☒ VEHICLE CODE 27150

EXPLANATION EXCESSIVE NOISE
DEFECTIVE MUFFLER

BUS. ☐ RES. ☑ RURAL ☐ SCHL. ☐ FRWY. ☐

WEATHER RAIN	WEATHER FOG	TRAFFIC HEAVY	TRAFFIC MED.	TRAFFIC LIGHT ☑	CONDITION OF ROAD NARROW	CURVE	HILL	SLIPPERY	NO. OF LNS.
									4

DISTANCE FROM: SIGNAL LIGHT FEET PEDESTRIAN FEET OTHER VEHICLE FEET

HAZARD TO: PED. ☐ VEH. ☐ NEAR ACCIDENT ☐ SIGNAL GIVEN YES ☐ NO ☐

You are notified to appear before the Municipal Court Judge, South Bay Department, 260 Guava, Chula Vista. DUE TIME 9:30 A MONTH 5 DAY 8 YEAR 67

I PROMISE TO APPEAR AT THE TIME AND PLACE DESIGNATED HEREON. SIGNING THIS CITATION IS NOT AN ADMISSION OF GUILT.

SIGNATURE R. M. Copeland Jr. AGE 24

ADDRESS 1214 Georgia St I.B.

ISSUING OFFICER J Zurcher BADGE NO. LT DIV. D WATCH 4-12

D.O. M&T VAC. PASSED

IN THE MUNICIPAL COURT
SAN DIEGO JUDICIAL DISTRICT

No. 27742

CRIMINAL DOCKET

TRAFFIC

SOUTH BAY DEPARTMENT

The People of the State of California,
Plaintiff,

vs.

Richard Milton Copeland Jr
Defendant

CHARGE

Count 1 Vio. Sec. 27150 VC

Count 2 Vio. Sec. .....

Count 3 Vio. Sec. .....

Count 4 Vio. Sec. .....

PROCEEDINGS

The undersigned waives the filing of a verified complaint herein, and requests and consents that the prosecution proceed on the original citation attached hereto to be set for trial as shown below.

Attorney for Defendant..... DEFENDANT

.....Bail set at $.....& Pen. Asst. $.....

.....Bail Deposited $.....& Pen. Asst. $.....

MAY 29 1967 Deft. not appearing, 40508 VC complaint & warrant ordered; bail: $ 25 10 3 PA

MAY 29 1967 WARRANT ISSUED

JUN 29 '67 40508 C.V.C. Notice Mailed

JUN 30 '67 Warrant returned unserved.

JUN 28 1967 BAIL DEPOSITED $35 - # 10284 J and $3 PA by self

JUN 30 1967 Set for appearance. 7-3-67 0930

JUL 3 1967 The defendant appears in open court for arraignment. Defendant is advised before being arraigned that he has a right to be represented by counsel at this and every stage of the proceedings and that, if he is unable to provide his own counsel, the Court would assign counsel to aid him. Defendant is advised of all of his statutory and constitutional rights including his right to a speedy trial, as set forth in Penal Code section 1382, and the Court explains to defendant and the effect of his consent to and his waiver of his rights under Penal Code section 1382. Defendant is fully informed of the charges against him and the elements of the crime so charged.
The Court finds that defendant freely and expressly stated that he heard the declaration of his rights and the charges against him and that he understood same.

Reported to Motor Vehicle Dept. JUL 11 1967

Case called; Defendant not counsel for. Defendant not appearing or answering. bail ordered forfeited.

William T. Lowe

Jr

SS	TRF	LLS	CONTROL DATE	COMPLAINT NO.	CONVICTION DATE	COURT	OPR. LIC. NO.	SECTIONS VIOLATED	AMT.
			11 23 66	2CC7C5C	02 21 67	3	B0785890	25956B 40508A	
			11 23 66	2CC7C5C	02 21 67	3	NONE	12951A	
			11 23 66	2CC7C5C	02 21 67	3	B0785890		

PRIOR ADJUDICATED COMPLAINTS

VC	PR	VC/PC - PENALTY ASSESSMENT COMPUTED								PR - PROOF OF CORRECTION REQUIRED							
10.5C																	
211.5C																	
		1st	2nd	3rd	4th	5th	6th	7th	8th	1st	2nd	3rd	4th	5th	6th	7th	8th

CURRENT VIOLATIONS

TOTAL BAIL (excluding P.A.)	$ 10.00
TOTAL PENALTY ASSESSMENT	$ 3.00
TOTAL BAIL (including P.A.)	$ 13.00

TOTALS SECTION

BIRTH DATE	S/E	OPR. LICENSE NUMBER	S/V/E
11 23 42	M		

SOUTH BAY

CL 0808 KLEINAKE M | 05 08 67 | | 04 20 67 | 07 24 67 | Z0077A2

LLS - LOCAL LICENSE SUSPENSION | TRF - TRAFFIC SCHOOL | SS - CONDITIONAL SUSPENSION

APPENDIX E

COPELAND RICHARD M — SOUTH BAY — MANDATORY APPEARANCE

IN THE MUNICIPAL COURT OF THE SAN DIEGO JUDICIAL DISTRICT

220 WEST BROADWAY

COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

COMPLAINT - TRAFFIC (FAILURE TO APPEAR-40508a V.C.)

THE PEOPLE OF THE STATE OF CALIFORNIA
PLAINTIFF,

VS.

E: COPELAND RICHARD M AKA

ESS. 1214 GEORGIA ST DEFENDANT

IMPERIAL BEACH CA

CASE NO. Z007742 042467

FILE DATE: 05-29-67

APPEARANCE DATE: 05-08-67

CITATION DATE: 04-20-67 VIOLATIONS: 27150

RIPTION:

DOB 11-23-42 SEX M HAIR EYES HT. 5-10 WT. 160 V/L VEH. 55P020T

TOTAL BAIL $38.00 PR 40508: 2 10 PA

HE UNDERSIGNED, UPON INFORMATION AND BELIEF, COMPLAINS THAT THE ABOVE-NAMED DEFENDANT VIOLATD HIS WRITTEN PROMISE TO APPEAR IN THE ABOVE-ENTITLED COURT UPON A TRAFFIC CITATION ON THE APPEARNCE DATE ABOVE SET FORTH, CONTRARY TO THE PROVISIONS OF SECTION 40508a OF THE VEHICLE CODE OF THE TATE OF CALIFORNIA, A MISDEMEANOR.

AID COMPLAINANT PRAYS THAT A WARRANT FOR THE ARREST OF SAID DEFENDANT BE ISSUED SO THAT HE MAY E DEALT WITH ACCORDING TO LAW.

CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

XECUTED AT San Diego ON MAY 26 1967

M. Mussen
COMPLAINANT

Defendant's Exhibit A

Identification DEC 15 1967 (DATE)

Evidence DEC 15 1967 (DATE)

In case of

People of the State of California
Pltf.

vs.

Copeland, R
Deft.

CC No. 12212

R. B. JAMES, County Clerk

By H. H. PEECK, Deputy

Dept. Z

Form 27 SM

COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

APPENDIX F

WARRANT OF ARREST (FAILURE TO APPEAR-40508a V.C.)

THE PEOPLE OF THE STATE OF CALIFORNIA
PLAINTIFF,
vs.

MARSHAL'S NO. 1

NAME: COPELAND RICHARD M AKA

CASE NO. ZC07742 04246

ADDRESS: 1214 GEORGIA ST DEFENDANT

ISSUE DATE: 05-29-67

IMPERIAL BEACH CA

APPEARANCE DATE: 06-08-67

CITATION DATE: 04-20-67 VIOLATIONS: 27150

DESCRIPTION:

O/L DOB 11-23-42 SEX M HAIR EYES HT. 5-10 WT. 160 V/L VEH. 55P020T

TOTAL BAIL $ 48.00 PR 40508: 2 10 PA 3
(Includes penalty assessment)

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ANY PEACE OFFICER IN THIS STATE:

COMPLAINT HAVING BEEN FILED THIS DAY STATING THAT ON THE ABOVE-STATED APPEARANCE DATE THE OFFENSE OF VIOLATION OF SECTION 40508a OF THE VEHICLE CODE OF THE STATE OF CALIFORNIA, A MISDEMEANOR, HAS BEEN COMMITTED, AND ACCUSING THE ABOVE-NAMED DEFENDANT THEREOF;

YOU ARE THEREFORE COMMANDED TO FORTHWITH ARREST THE ABOVE-NAMED ACCUSED AND BRING HIM BEFORE A JUDGE OF THE ABOVE-ENTITLED COURT, OR IN THE CASE OF HIS ABSENCE OR INABILITY TO ACT, BEFORE THE NEAREST AND MOST ACCESSIBLE MAGISTRATE OF SAN DIEGO COUNTY; OR, IF DEFENDANT IS ARRESTED IN ANOTHER COUNTY BEFORE A MAGISTRATE OF THAT COUNTY, IF SO REQUESTED BY THE DEFENDANT.

THIS WARRANT MAY BE SERVED AT NIGHT. DEFENDANT IS TO BE ADMITTED TO BAIL IN THE TOTAL AMOUNT SHOWN ABOVE.

MAY 29 1967

Frank H. Gotbusch Jr.

In the Municipal Court, San Diego Judicial District
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

I, JOHN H. PETERSEN, Clerk of the Municipal Court of the San Diego Judicial District, County of San Diego, State of California, do hereby certify that the annexed instrument is a true and correct copy of the original, as shown by the files and records of said cause, in my official custody.

Witness my hand and seal this 18th day of September, 1967

JOHN H. PETERSEN, Clerk

By Geraldine Kaiser, Deputy

Form 60 Mun. 4-60 1M Plaza

EXHIBIT NO. 3

PEOPLE,
Plaintiff,
vs.
Richard M. Copeland et al
Defendant.

D.A. No.
Wickersham

Date September 20 1967

Elisabeth R. Stephen-Hassard
Reporter

MARSHAL MUNICIPAL COURTS, SAN DIEGO COUNTY

WARRANT ABSTRACT
(Refer 842 P.C.)

NAME: COPELAND , RICHARD M.

WARRANT NO.: Z 007742

DESCRIPTION: M 5-10 160# DOB 11-23-42

BAIL: $ 38.00

ISSUING AGENCY: Marshal, San Diego County

CHARGE: 27150 CVC

DATE ISSUED: 5-26-67

COURT: S.D. MUNI.

JUDGE: NOTTBUSCH

MANDATORY APPEARANCE: YES NO

NIGHT SERVICE: YES NO

DATE: 6-29-67 TIME: 12:30 PM

WARRANT IS PRESENTLY AT: C.V. M.O. (CURRY)

WARRANT WILL BE FORWARDED WHEN RETURNED TO THIS OFFICE.

WILLIAM F. HOWELL, MARSHAL

By: _____ (Deputy Marshal)

JUN 29 1967

$38.00 CASH BAIL

POSTED BY: _____

SDM 87 Rev. 3/66

TO APPEAR Metro Ct.

7-3-67 @ 8:30 A.M.

In the Municipal Court, San Diego Judicial District
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

I, JOHN H. PETERSEN, Clerk of the Municipal Court of the San Diego Judicial District, County of San Diego, State of California, do hereby certify that the annexed instrument is a true and correct copy of the original, as shown by the files and records of said cause, in my official custody.

Witness my hand and seal this 18th day of September, 1967.

JOHN H. PETERSEN, Clerk

By Geraldine Kaiser, Deputy

Plaintiff's Exhibit 1

Identification (DATE)

Evidence (DATE)

In case of

Plff.

vs.

Deft.

CR No. 12313

R. B. JAMES, County Clerk

APPENDIX G

IN THE COURT OF APPEAL

FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, by JAMES DON KELLER, District Attorney for the County of San Diego,	)	
Petitioner,	)	
vs.	)	
SUPERIOR COURT OF THE STATE OF CALIFORNIA, for the County of San Diego,	)	4 Civ. No. 9139
Respondent.	)	
RICHARD M. COPELAND, JR., and SANDEE L. PETERSON,	)	
Real Parties in Interest.	)	

PEREMPTORY WRIT OF PROHIBITION

BY THE COURT:

It is ordered by this Peremptory Writ of Prohibition that the Respondent Court is prohibited from suppressing the evidence included within its order entered January 17, 1968, under Section 1538.5 of the Penal Code.

It is further ordered that this Court's April 3, 1968, restraining order be and the same is hereby vacated.

Dated:

/s/ BROWN
Presiding Justice.

EXHIBIT H

COURT OF APPEAL - STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

PEOPLE ETC, BY JAMES DON KELLER, DISTRICT ATTORNEY, SAN DIEGO COUNTY,	)	
Petitioner,	)	
vs.	)	4 Civil
SUPERIOR COURT ETC, SAN DIEGO COUNTY,	)	No. 9139
Respondent,	)	
RICHARD M. COPELAND, JR., ET AL,	)	
Real Parties in Interest.	)	(COPY)

BY THE COURT:

Upon filing Petition for Writ of Mandamus and Prohibition and good cause appearing, the respondent and real parties in interest are ordered to show cause before this court, Division One, 6010 State Building, San Diego, California, on May 14, 1968, at ten a.m., why the writ should not issue as prayed.

Dated March 19, 1968

BROWN, P. J.

11921-114 7-67 8M OSP

EXHIBIT I

COURT OF APPEAL - STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE OF THE STATE OF CALIFORNIA, by JAMES DON KELLER, District Attorney, SAN DIEGO COUNTY,	No. 4 Civil 9139
Petitioner,	Court of Appeal - Fourth Dist
vs.	FILED APR 4 1968
THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO,	GEORGE J. KOBELIN, Clerk
Respondent,	/s/ GEORGE J. KOBELIN
RICHARD M. COPELAND, JR., and SANDEE L. PETERSON,	
Real Parties in Interest.	

BY THE COURT:

An Order to show cause why a Writ of Mandamus and Prohibition should not issue having been granted in the above-entitled matter, until further order of this Court the Superior Court of San Diego County is restrained

from further proceedings in the case titled People of the State of California vs. Richard M. Copeland, Jr., and Sandee L. Peterson, No. CR 12313.

Dated: 4/3/68 /s/ BROWN P.J.